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Docket No.: ID-8312

FEB 27 2007

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By: James Keen

Date: 2/27/07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor : Smith et al. Confirmation No. 9231  
Applic. No. : 10/728,389  
Filed : December 5, 2003  
Title : Flexible Tissue Retractor and Method for Using the Retractor  
Examiner : Julian W. Woo  
Art Unit: 3732

Docket No. : ID-8312

Customer No. 27,316

R E S P O N S E

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Office Action dated January 29, 2006, the following remarks are made:

The Examiner issued a Restriction Requirement in items 1 and 2 on pages 2 and 3 of the Office action with Group I containing claims 1 to 66 and 83 to 85 and Group II containing claims 67 to 82. Claims 86 and 87 were not mentioned in this Restriction. Nonetheless, they will be treated herein as being included in Group I because each of these claims depends from a claim within Group I.

In response to the comments directed to the Restriction Requirement, Applicants hereby affirm the election to prosecute the invention of Group I, claims 1 to 66 and 83 to 87. The Examiner is

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Appl. No. 10/728,389  
Response dated February 27, 2007  
Reply to Office action of January 29, 2007

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kindly requested to treat the non-elected claims under In re Ochiai, 37 USPQ2d 1127 (Fed. Cir. 1995); see also 1184 OG 86 (March 26, 1996) and In re Brouwer, 37 USPQ2d 1663 (Fed. Cir. 1996).

The Examiner also issued an Election of Species Requirement in items 3 and 4 on pages 3 and 4 of the Office action. The Election of Species Requirement, however, was directed to the non-elected claims of Group II. Therefore, it is believed that this Election Requirement is moot.

In view of the foregoing, the early issuance of an Action on the merits of claims 1 to 66 and 83 to 87 is solicited.

If an extension of time for this paper is required, petition for extension is herewith made. Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Mayback & Hoffman, P.A., No. 503,836.

Respectfully submitted,

For Applicants  
GLM:cgm

February 27, 2006

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